IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

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WRIT PETITION NO : 1888 of 1999

Between:

Chennuru Kama Rajamma W/o.Hari Shankar Gupta,
R/o.H.No.12-1-1,1/2,1/3,1/4, Ichapuram, Srikakulam Dist.

..... PETITIONER

AND

1 A. Asst. Engineer, Electric Sub Station,
A.P.S.E.B, Ichapuram.
2 The Mandal Revenue Officer,
Ichapuram, Srikakulam Dist.
3 The Commissioner,
Nagar Panchayat, Ichapuram, Srikakulam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the action of the first respondent in erecting the poles and connecting them by live wires, close to the damaged portion of the petitioner's house thus threatening the petitioner's right to life as unconstitutional and consequently direct Respondent No.1 to remove forthwith the poles erected up adjacent to her house Viz., H.NO.12-1-1-1/2, 1/3, 1/4.

Counsel for the Petitioner: MR. K.S.MURTHY

Counsel for Respondent No.1: MR. SRINIVAS DAMMALAPATI (STANDING COUNSEL FOR A.P.S.E.B.)

Counsel for Respondent No.2: GOVERNMENT PLEADER FOR ROADS AND BUILDINGS

Counsel for Respondent No.3: MR. E.SAMBASIVA PRATAP

The Court made the following:

ORDER:

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This writ petition is filed seeking a Writ of Mandamus to declare the action of the first respondent, in erecting the poles and connecting them by live wires, close to the residential house of the petitioner bearing No.12-1-1-1/2, 1/3 and 1/4 as illegal and consequently, directions are sought for removal of such erected poles.

From the very affidavit filed in support of the writ petition, it indicates that on the ground that the petitioner has encroached on the National Highway margin, steps have been taken by the respondents for removing the same. Further, with regard to title of the disputed area, where a portion of the house of the petitioner was demolished, it is stated, a suit is already filed and is pending consideration. As much as there is a dispute with regard to title of the property where the constructed portion was demolished earlier on the allegation of encroachment, as of now he cannot claim as a matter of right to seek further distance limits from such area for erection of electric poles. Having regard to the nature of dispute, it is a matter, which has to be adjudicated by a competent civil Court after conducting appropriate enquiry. The relief, which is sought for, cannot be granted, in view of the factual disputes, which are existing with regard to title and possession of the property. In that view of the matter, the relief sought for cannot be granted. However, this Court, by way of interim orders as early as on 03-02-1999 directed to cover the live wires, which are passing near to the house of the petitioner with plastic insulation. To maintain safety to the inmates of the house, plastic insulation, which is covered to the live wires, which are near to the residence of the petitioner, should be continued.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

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R.SUBHASH REDDY, J

28th June, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The A. Assistant Engineer, Electric Sub Station, A.P.S.E.B.,

Ichapuram, Srikakulam District.

2. The Mandal Revenue Officer, Ichapuram, Srikakulam District.

3. The Commissioner, Nagar Panchayat, Ichapuram,

Srikakulam District.

4. Two CCs to the Government Pleader for Roads and Buildings,

High Court Buildings, Hyderabad (O.U.T).

5. Two CD copies.